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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,755	08/23/2000	Gijs van Rooijen	9369-153/MG	1008
1059	7590	12/29/2005	EXAMINER	
BERESKIN AND PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA			HELMER, GEORGIA L	
			ART UNIT	PAPER NUMBER
			1638	
DATE MAILED: 12/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/643,755

Applicant(s)

VAN ROOIJEN ET AL.

Examiner

Georgia L. Helmer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-17 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-17 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Status of the Claims

1. The Office acknowledges receipt of Applicants Response; dated 28 September 2005.
2. Applicant has amended claims 1, 14, 15, 16 and 17, Claims 1, 3, 5-17, and 21 - 23 are pending, and are examined in the instant action.
3. This action is made FINAL necessitated by Applicant's amendment.
4. All rejections not addressed below have been withdrawn.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

6. Claim 23 is objected to because the status identifier of the claims is improper according to 37 CFR 1.121. Claim 23 has no status identifier. Correction is required.

Claim Rejections - 35 USC § 112-2

8. Claims 1, 3, 5-17, and 21 -23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are drawn to a method of producing chymosin by the method of claim 1, wherein chymosin is purified to "homogeneity". The specification does not define "homogeneity". The metes and bounds of "homogeneity" are not apparent.

Correction/clarification is required.

Claim Rejections - 35 USC § 112, first paragraph

9. Claims 1, 3, 5-17, and 21 –23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. The rejected subject matter is “chymosin is purified to homogeneity”. Applicant is invited to point out the page and line number in the specification where “purified to homogeneity” can be found. Absent such support, Applicant is required to cancel the new matter in response to this Office Action.

Applicant has indicated support for this amendment is found in the specification, Example 5 (p. 29, line 3 to plant 30, line 10) and in Figure 5. See (Response of 28 September 2005, p. 11, 2nd ¶).

Applicant's traversal is unpersuasive. The Examiner is unable to identify such support, and requests further information in this respect.

Claim Rejections - 35 USC § 103

10. Claims 1, 3, 5-17 and 21-23 remain rejected under 35 U.S.C. 103 as being unpatentable by Willmitzer et al (WO 92/01042), for reasons set forth in the Office Action of 04 May 2005, which are repeated in part below. To the extent that this is a

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new rejection, the rejection is extended to the claims as amended, for reasons stated below.

Applicant traverses saying primarily saying "Willmitzer [does not] disclose recovering or isolating chymosin from plant tissue, or more specifically a plant seed comprising an oil fraction. In fact, Willmitzer does not seem concerned about the purification of enzymes from plants...Consequently Willmitzer would provide no motivation for one skilled in the art to isolate chymosin from plant seeds comprising an oil fraction". ((Response of 28 June 2005, p. 9 ¶ bridging p.10) Applicant further traverses that "Willmitzer..is not teaching a method of protein isolation using a protein binding resin" but "is using denaturing gel electrophoresis and Western blot analysis for the immunological detection of proteins".

Applicant's traversal is unpersuasive. Willmitzer clearly provides such motivation. See Abstract, 2nd sentence; p. 9, line 32, bridging p. 10, line 8; see also claims 1, 19, 22 and 43. Furthermore, Willmitzer clearly was recovering chymosin using an polyacrylamide gel protein binding resin.

Applicant traverses saying primarily (Response of 28 June 2005, p.10, 2nd ¶) that that "claims 1 and 17 have been amended to reflect the fact that chymosin is purified to homogeneity".

Applicant's traversal is unpersuasive. The § 103 rejection over Willmitzer stands.

(a) all plants have oils; (b) Applicant's construct is taught by the prior art (Willmitzer); the method of isolating a protein is taught by the prior art, and therefore the

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protein obtained at the end of the process would inherently be "purified to homogeneity", and (c) "homogeneity" is not defined as any particular percent purity. Therefore the prior art teaches the "homogeneity" limitation.

Remarks

11. No claims are allowed

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

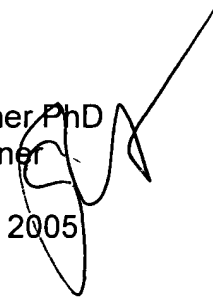
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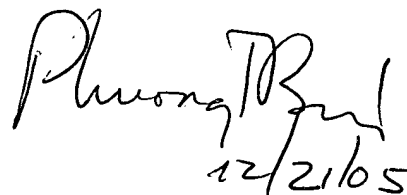
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 571-272-0796. The examiner can normally be reached on M-Th, 10:30 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Georgia Helmer PhD
Patent Examiner
Art Unit 1638
21 December 2005




12/21/05
PHUONG T. BUI
PRIMARY EXAMINER